

## § 575.7

## 29 CFR Ch. V (7-1-00 Edition)

(d) If a waiver is granted there will be published in the FEDERAL REGISTER a general notice to that effect setting forth for each waiver granted: the name of the employer or the name of each employer of a group of employers; the address of each such employer, including city, state, and zip code; and the dates of the period the waiver will be in effect.

(e) If a waiver is denied, the Administrator shall give written notice of such denial to the employer or group of employers applying for a waiver. Such denial will be without prejudice to the filing of any subsequent application.

### § 575.7 Statutory conditions for employment under the waiver.

Any waiver granted pursuant to section 13(c)(4) of the Act and this part shall require that:

(a) Employment of 10 and 11 year old minors pursuant to the waiver be outside school hours.

(b) Individuals employed commute daily from their permanent residence to the farms(s) or field(s) where employed.

(c) Such individuals be employed for not more than 8 weeks between June 1 and October 15 of any calendar year. When schools are in session, any employment under a waiver shall be confined to outside of school hours.

### § 575.8 Secretary's conditions for employment under the waiver.

The Secretary prescribes the following terms and conditions for the protection of minors employed pursuant to a waiver granted under section 13(c)(4) of the Act:

(a) An employer or group of employers granted such a waiver shall obtain and keep on file a signed statement of the parent or person standing in the place of the parent of each 10 and 11-year old minor employed consenting to the employment of such minor under the waiver.

(b) Any employment pursuant to a waiver shall be in compliance with applicable Federal and State laws, and any regulations issued under them.

(c) No employer or group of employers shall employ any 10 or 11 year old minor pursuant to a waiver for more than 5 hours in any one day or for more

than 30 hours in any workweek with a meal break of at least 30 minutes and two rest breaks of at least 15 minutes each.

(d) An employer or group of employers granted such a waiver shall provide immediately adjacent to the field(s) to be hand harvested: (1) Adequate sanitary facilities, such as portable toilets; (2) adequate and clean drinking water in covered containers with spouts, and an adequate supply of paper or plastic cups for individual drinking use; and (3) a specified adult employee, who is appropriately equipped and is knowledgeable about first-aid treatment and readily available to give such treatment when needed.

(e) An employer or group of employers granted such a waiver shall provide emergency transportation either to the minor's permanent residence or to the nearest hospital for any 10 or 11 year old hand harvester who becomes ill or is injured during the normal hours of employment.

(f) No 10 or 11 year old employed under a waiver shall ride upon or be employed in the operation of or in the close proximity to any power driven machinery or equipment. Generally, a distance of fifty feet or more will be construed to meet the requirement that employment not be in "close proximity" to machinery or equipment.

(g) An employer or group of employers granted such a waiver who owns, operates, or causes to be operated any vehicle for the transportation of such minors shall be responsible for assuring that:

(1) Every such vehicle is in compliance with all applicable Federal and State safety and health standards and with the rules and regulations issued by the Bureau of Motor Carrier Safety, Federal Highway Administration of the U.S. Department of Transportation;

(2) Every such vehicle be designed for transporting passengers and be operated by a lawfully licensed driver; and

(3) A vehicle liability insurance policy provides insurance in an amount not less than the amounts applicable to vehicles used in the transportation of passengers under the Interstate Commerce Act and its regulations. These amounts currently are as follows:

**Wage and Hour Division, Labor**

**§ 578.3**

**INSURANCE REQUIRED FOR PASSENGER EQUIPMENT**

	12 or less passengers	More than 12 passengers
Limit for bodily injuries to or death of 1 person .....	\$100,000	\$100,000
Limit for bodily injuries to or death of all persons injured or killed in any 1 accident (subject to a maximum of \$100,000 for bodily injuries to or death of 1 person)	300,000	500,000
Limit for loss or damage in any 1 accident to property of others (excluding cargo) .....	50,000	50,000

578.3 Violations for which penalty may be assessed.

578.4 Determination of penalty.

AUTHORITY: Sec. 9, Pub. L. 101-157, 103 Stat. 938, sec. 3103, Pub. L. 101-508, 104 Stat. 1388-29 (29 U.S.C. 216(e)).

SOURCE: 57 FR 49129, Oct. 29, 1992, unless otherwise noted.

**§ 578.1 Purpose and scope.**

Section 9 of the Fair Labor Standards Amendments of 1989 amended section 16(e) of the Act to subject any person who repeatedly or willfully violates section 6 or section 7 of the Act to a civil money penalty not to exceed \$1,000 for each such violation. This part defines terms necessary for administration of the civil money penalty provisions, describes the violations for which a penalty may be imposed, and describes criteria for determining the amount of penalty to be assessed. The procedural requirements for assessment and contest of such penalties are set forth in 29 CFR part 580.

**§ 578.2 Definitions.**

(a) *Act* means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060 (29 U.S.C. 201 et seq.));

(b) *Administrator* means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, and includes any official of the Wage and Hour Division who is authorized by the Administrator to perform any of the functions of the Administrator under this part.

(c) *Person* includes any individual, partnership, corporation, association, business trust, legal representative, or organized group of persons.

**§ 578.3 Violations for which penalty may be assessed.**

(a) A penalty of up to \$1,000 per violation may be assessed against any person who repeatedly or willfully violates section 6 (minimum wage) or section 7 (overtime) of the Act. The amount of the penalty shall be determined by application of the criteria in § 578.4.

(b) *Repeated violations.* An employer's violation of section 6 or section 7 of the Act shall be deemed to be "repeated" for purposes of this section:

(h) A copy of the waiver shall be posted or readily available at the site or sites of such employment of such minors during the entire period.

(i) The employer or group of employers shall maintain and preserve a record of the name, address, and occupation of each minor employed under the waiver in accordance with § 516.33(b) of this chapter. In addition, the record shall also include the date of birth, the name and address of the school in which the minor is enrolled, and the number of hours worked each day and each week of the designated period. Each employer required to maintain records under this part shall preserve them for a period of at least 2 years.

(j) A waiver shall be effective for the period designated therein with no provision for amendment

[43 FR 26562, June 21, 1978; 43 FR 28471, June 30, 1978]

**§ 575.9 Failure to comply with the terms and conditions of the waiver.**

If the employer or group of employers granted a waiver pursuant to section 13(c)(4) of the Act and this part do not comply with the terms and conditions set forth in the waiver and this part, the waiver shall be null and void and the employer or group of employers will be subject to civil money penalties under section 16(e) of the Act.

**PART 578—MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES**

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